

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:

TYSHEED DAVIS,

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CIVIL ACTION NO. 21-CV-5701

ORDER

AND NOW, this 7th day of June, 2022, upon consideration of Tysheed Davis's Motion to Proceed *In Forma Pauperis* (ECF No. 7), Prisoner Trust Fund Account Statement (ECF No. 8), and *pro se* Amended Complaint (ECF No. 4), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Tysheed Davis, #KC5313, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Dallas or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Mr. Davis's inmate account; or (b) the average monthly balance in Mr. Davis's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Mr. Davis's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Mr. Davis's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Dallas.
4. The Amended Complaint is **DEEMED** filed.
5. The Clerk of Court is **DIRECTED** to amend the caption to reflect the following Defendants named in the Amended Complaint: the City of Philadelphia Police Department, Judge J. Scott O'Keefe, Police Officer John Taggart, and Police Officer Madara.
6. The Amended Complaint is **DISMISSED IN PART WITH PREJUDICE** and **DISMISSED IN PART WITHOUT PREJUDICE** for the reasons stated in the Court's Memorandum as follows:
 - a. The claims against Defendant Philadelphia Police Department are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
 - b. The claims against Defendant Judge J. Scott O'Keefe are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
 - c. The claims based on the search and seizure and deliberate indifference to medical needs are **DISMISSED WITH PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as time-barred.
 - d. All remaining claims are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as barred by *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). The dismissal is without prejudice to Mr. Davis filing a new case only in the event his underlying conviction is reversed, vacated, or otherwise invalidated.
7. The Clerk of Court shall **CLOSE** this case for all purposes, including statistics.

BY THE COURT:



GENE E.K. PRATTER, J.